

DEPARTMENT OF SOCIAL SERVICES

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September 17, 1982

ALL-COUNTY INFORMATION NOTICE I-131-82

TO: ALL COUNTY WELFARE DIRECTORS
ALL CHIEF PROBATION OFFICERS
ALL LICENSED PUBLIC AND PRIVATE ADOPTION AGENCIES
ALL DSS DISTRICT ADOPTION OFFICES

SUBJECT: AB 2695 IMPLEMENTATION ISSUES

REFERENCE:

This is to provide you with a summary of the provisions of AB 2695, recently signed into law, which is to become effective October 1, 1982, and to apprise you of certain implementation issues resulting from its passage.

SUMMARY OF PROVISIONS

AB 2695 implements the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272), which established a new Title IVE for federal funding of the AFDC-FC Program and the newly created Adoption Assistance Program (AAP). The bill contains provisions pertaining to AFDC-FC, AAP and AFDC-FC rate setting.

Specifically, AB 2695 requires the following:

Provisions Related to AFDC-FC

1. Requires, in addition to the current eligibility requirements of assessment, service plan and six month visits to the child, that the following services be provided in order for a child to be eligible for AFDC-FC payment:
 - a. Preplacement preventive services beginning October 1, 1983. (These services are not required for a child who is relinquished by one or more parents, declared free from the custody and control of one or more parents or living with his or her nonrelated legal guardian);
 - b. Family reunification services or permanent placement services;
 - c. Periodic reviews conducted by the court or an administrative panel held at six-month intervals. (Periodic reviews are not required for a child living with his or her nonrelated legal guardian); and

- d. Permanency planning hearings held by the court no later than 18 months after placement and periodically thereafter. (Permanency planning hearings are not required for a child living with his or her nonrelated legal guardian.)
2. Provides for a dependency hearing for children who have been freed for adoption for 12 months from one or both parents. Through the dependency action, the court can conduct the required permanency planning hearing.
3. Provides that, under certain conditions, counties may receive federal matching funds for otherwise eligible children placed in licensed, public child care institutions. Funding for these placements is limited to 30 days or, in certain cases when an alternative placement is not feasible, to 90 days. State funding is not available under this provision. This provision becomes operative only when no restrictions exist on federal matching funds.
4. Requires the State Department of Social Services to establish in regulation specific numeric goals for the number of children who have been residing in foster care for two or more years.
5. Clarifies that reporting requirements apply to all agencies which have placement and care responsibility for children receiving AFDC-FC funds.

Provisions Related to the Adoption Assistance Program

1. The current state Aid to the Adoption of Children (AAC) Program provides payments to families who adopt hard-to-place children for a maximum of five years in most cases. AB 2695 creates a new Adoption Assistance Program (AAP) and provides for payment of federal and non-federal children up to the age of 18 under specified conditions. The bill will continue current agreements under the AAC Program for those cases initiated prior to October 1, 1982 until eligibility under AAC expires.
2. Provides for the adoptive parent(s) and the adoption agency to jointly petition the court for an interlocutory decree of adoption which will allow for payment of adoption assistance for eligible children prior to the finalization of adoption.

Provisions Related to AFDC-FC Rate-Setting

1. With regard to group homes, AB 2695:
 - a. Designates the Department as the agency responsible for administering a state system for establishing AFDC-FC rates for group homes.
 - b. Requires uniform procedures to be established for setting group home rates and specifies which costs are allowable for inclusion in the rates. Although the costs of certain "social worker" activities are not allowable for federal reimbursement, AB 2695 provides for state reimbursement of such costs to the extent that the federal 1983 budget act results in savings to offset the costs. (See the following section on Implementation Issues - Allowable Costs.)

- c. Requires the Department to conduct an audit of group homes receiving AFDC-FC funding at least once every three years beginning October 1, 1982.
 - d. Requires the Department to develop and implement new controls on the levels of group home rates no later than July 1, 1984. During the 1983/84 fiscal year, group home rates will be limited to the lesser of either actual allowable costs or the previous year's payment level, increased by cost-of-living.
2. Establishes a statewide, uniform basic rate structure for family homes which will be phased-in over a several year period subject to the availability of funds.
 3. Requires the Department to develop and implement by July 1, 1984 rate-setting systems for (1) family homes that receive specialized care rates and (2) homefinding agencies.
 4. Establishes an exception process to the existing controls on increases in state participation for the 1982/83 fiscal year, whereby an existing group home provider can receive full state participation in a rate increase which exceeds the cost-of-living restriction. This exception is available when the group home has developed a new program which serves an entirely different population at an entirely different level of service than that currently served by the provider's existing program, either is located in a different facility from current programs operated by the provider or the provider's current programs are discontinued in favor of the new program and which was developed to serve a county based need. The county in which the provider is located is required to substantiate that the specified criteria have been met and to certify that General Fund costs shall not increase as a result of the new rate.

IMPLEMENTATION ISSUES

Regulations Implementing AB 2695

Several regulation packages are necessary in order to implement AB 2695. The packages will be filed on an emergency basis and will be transmitted under a separate cover as soon as possible. Regulations implementing the Title IVE program changes, the allowable cost changes and the provision regarding rate exceptions to the cost-of-living restriction will be effective October 1, 1982. The following regulations will be promulgated:

1. Family Reunification Program and Permanent Placement Services regulations (Division 30) A/
2. Administrative Review regulations (Division 30) A/

A/ The services and administrative review regulations will be promulgated as a result of SB 14. However, they are also tied to AB 2695 because they will put the procedures in place that enable the AFDC-FC services and administrative review requirements of AB 2695 to be met.

3. Title IVE AFDC-FC Program regulations (Division 45)
4. Title IVE AAP federal eligibility regulations (Division 45)
5. Title IVE AAP program regulations (Title 22)
6. Title IVE Goals for Children in Foster Care More than 24 Months (MPP Section 11-005)
7. Title IVE Allowable Costs regulations (MPP Section 11-225)

The Department also plans to file, within 120 days of the bill's enactment, a set of emergency regulations implementing the remaining AFDC-FC rate setting requirements of the bill.

We are in the process of developing and revising forms to incorporate these program changes and will forward them to you under separate cover as soon as possible.

Allowable Costs

One critical implementation issue concerns the new federal definition of allowable costs. AB 2695 closely parallels federal law which defines costs allowable for inclusion in group home rates under Title IVE as "the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation. In the case of institutional care, such term shall include the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence." Although social service activities that would be categorized as daily supervision or administration would continue to be federally eligible, a federal program announcement (ACYF-PA-82-01, issued April 30, 1982) clarified that the following social service activities are no longer eligible for federal financial participation:

1. Counseling and therapy to the child or biological family to help a child's adjustment at the institution, to resolve the problems for which the child was placed or to plan for the return of the child to the community.
2. Psychological or educational testing, evaluation and assessment.

Although federal participation is no longer available, AB 2695 provides that state participation in the costs of social worker activities is available to "the extent that general or federal welfare fund savings result from any federal changes in the 1983 federal budget act, or if these savings do not materialize, from other federal funds not otherwise appropriated". The term "social worker" is not restricted by the type of credentials held by the employee. Therefore, state participation is available in the cost of those treatment activities generally "social work" in nature regardless of whether the employee actually performing the activity or providing the service holds a professional credential or license beyond that typically associated with social work.

Other costs currently included in existing rates which do not fall within the definition of costs allowable for inclusion will not be eligible for state or federal participation under Title IVE. The cost of treatment activities not social work in nature and which require in their performance a professional credential or license (e.g., doctor of psychology, psychiatry or medicine, etc.), the cost of medical diagnosis and the cost of educational activities are not eligible for reimbursement. However, such costs will generally continue to be eligible for reimbursement under Title XIX of the Social Security Act and special education funds through the State Department of Education.

In order to assure conformity with AB 2695 and the federal law, counties must review the basis upon which rates for the 1982-83 year have been set. Necessary adjustments must be made to assure that these costs are appropriately claimed for periods after October 1, 1982 and appropriate notifications to user counties should be made. Fiscal claiming instructions will be issued shortly.

We recognize the administrative difficulty in implementing the provisions of AB 2695 under such short notice. However, implementation by October 1, 1982 is necessary to comply with PL 96-272. Unfortunately, due to the late passage of AB 2695, earlier issuance of this notice was not possible.

If you have any questions regarding the provisions of AB 2695 or the above implementation issues, please contact the appropriate agency as follows:

County welfare departments should contact the AFDC-Foster Care Bureau at (916) 323-1263.

County probation departments should direct questions to your county welfare department.

Licensed public and private adoption agencies and DSS district adoption offices should contact your Adoption Consultant.

Many individuals and organizations contributed significantly to the development of AB 2695 and to the pending implementation of PL 96-272. Foremost among these was the County Welfare Directors Association PL 96-272 Ad Hoc Committee. Our sincere thanks and appreciation is extended to all.

Marion J. Woods
MARION J. WOODS
Director

cc: CWDA